

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 13, 2001

D039058 Martin v. Superior Court of San Diego County/People

The petition is denied.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Terry O'Rourke

Clerk: D. E. Moore

D037514 In re Nyianza M. et al., Juveniles

Cause called on merits. Donna Kaiser, Esq. argued for appellant. Kathryn Krug, Deputy County Counsel argued for respondent. Alice C. Shotton, Esq. argued for the minor. Cause submitted.

D035206) Ryan v. California Interscholastic Federation et al.

D036199) Ryan v. California Interscholastic Federation

D036952) Ryan v. California Interscholastic Federation

Cause called on merits. Robert P. Otilie, Esq. argued for appellant/cross-respondent.

Michael I. Neil, Esq. argued for respondent/cross-appellant. Fredric D. Woocher, Esq. argued for amicus curiae. Mr. Otilie replied. Mr. Neil replied. Cause submitted.

Court recessed at 10:20 a.m. until 1:30 p.m.

D038817 In re Suggs on Habeas Corpus

The petition is denied without prejudice to re-filing after consideration by the superior court.

D038818 In re Homick on Habeas Corpus

The petition is denied.

D038730 In re J. L., a Juvenile

The appeal is dismissed. O'Rourke, J.; We Concur: Benke, Acting P.J., Nares, J.

D038396 In re Erwin O. et al., Juveniles

The appeal is dismissed. O'Rourke, J.; We Concur: Benke, J., Nares, J.

D036354 Arenas v. Board of Supervisors of San Diego County et al.

The opinion filed October 25, 2001, is modified as follows:

Page 4, line 3 and 11: replace section 271.5 with 257.1

Page 9, last line: delete the sentence Arenas is awarded costs on appeal; delete footnote 4 reference and footnote 4 text

As modified, the petition for rehearing is denied.

There is no change in the judgment.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 13, 2001 (Continued)

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices
Alex McDonald and Terry O'Rourke
Clerk: D. E. Moore

D038191 Cranstal Resources, Ltd., et al. v. Dean Witter Reynolds, Inc.

Cause called on merits. Todd E. Gordinier, Esq. argued for respondent. Gregory J. Sherwin, Esq. argued for appellant. Mr. Gordinier replied. Cause submitted.

D038192 Cranstal Resources, Ltd., et al. v. Jukowski & Bresenhan

Cause called on merits. Gregory Henry Halliday, Esq. argued for respondent. Gregory J. Sherwin, Esq. argued for appellant. Mr. Halliday replied. Cause submitted.

D035997 Costco Companies, Inc. v. Don Gallant, et al.

Cause called on merits. David Frank McDowell, Esq. argued for appellant/cross-respondent. Dale Lanard Gronemeier, Esq. argued for respondent/cross-appellant, Gallant. Peter D. Lepiscopo, Esq. argued for respondent/cross-appellant, Gallant. Mr. McDowell replied. Cause submitted.

Court recessed at 3:06 p.m. until Wednesday, November 14, 2001 at 9 a.m.

D036573 People v. Borsellino

The petition for rehearing is denied.

D038846 In re Haque on Habeas Corpus

The petition is denied without prejudice to refile after consideration by the superior court.

D038068 Crystal A. v. Chacon, Sr., et al.

The appeal is dismissed.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 14, 2001

D036536 People v. Wilson

The judgment is reversed and the matter is remanded to the trial court with instructions to allow Wilson to withdraw his guilty pleas. McIntyre, J.; I Concur: O'Rourke, J.;
Dissenting (Opinion): Huffman, Acting P.J.

D037736 People v. Rojas

Judgment affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices
Richard Huffman and Terry O'Rourke
Clerk: D. E. Moore

D037309 Cullett v. T. B. Penick & Sons, Inc.

Cause called on merits. Mike Nalu, Esq. argued for respondent. Dennis Atchley, Esq. argued for
respondent. Cause submitted.

D036894 Sambrano v. City of San Diego

Cause called on merits. Terrence L. Butler, Esq. argued for appellant. Shoshana Lazik, Deputy City
Attorney argued for respondent. Mr. Butler replied. Cause submitted.

Court recessed at 9:37 a.m. to change panel members. New panel members: The Honorable
Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre
and Terry O'Rourke

D038029 Morris Cerullo World Evangelism et al. v. Superior Court/Warren-RPI

Matter called on merits. Benjamin Samuel Cardozo, Esq. argued for petitioner. Hunter Lundy, Esq.
argued for real party in interest, John Warren. Timothy C. Rutherford, Esq. was present in oral argument
for real party in interest, but did not argue. Dean Robert Broyles, Esq. was present in oral argument for
real party in interest, but did not argue. Thomas P. LeBlanc, Esq. was present in oral argument for real
party in interest, but did not argue. Mr. Cardozo replied. Richard Towne, Esq. replied for petitioner.
Matter submitted.

D037772 Palmer v. Superior Court/Pacificare of California-RPI

Matter called on merits. Mitchel J. Olson, Esq. argued for petitioner. Tim Coates, Esq. argued for real
party in interest. Matter submitted.

Court recessed at 10:50 a.m. until 1:30 p.m.

D038534 In re William P., a Juvenile

The appeal is dismissed. O'Rourke, J.; We Concur: Benke, Acting P.J., Nares, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 14, 2001 (continued)

D038834 In re Weaver on Habeas Corpus

The petition is denied.

D038851 In re Dean on Habeas Corpus

The petition is denied.

D037033 League For Coastal Protection v. City of Oceanside et al./Manchester Resorts, L.P. et al.

Judgment affirmed. Haller, J.; We Concur: Benke, Acting P.J., McDonald, J.

D037733 People v. Bowie

Judgment affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D033446 People v. Rodrick

Affirmed. Haller, J.; We Concur: Benke, Acting P.J., Nares, J.

Court reconvened at 1:30 p.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke

Clerk: D. E. Moore

D035748 Gutterud et al. v. Deveros et al.

Cause called on merits. Jon R. Williams, Esq. argued for appellant. Randall Winet, Esq. argued for respondent. Mr. Williams replied. Cause submitted.

Court recessed at 1:50 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Alex McDonald

D035782 People v. Gunn

Cause called on merits. Nancy J. King, Esq. argued for appellant. Jim Dutton, Deputy Attorney General argued for respondent. Ms. King replied. Cause submitted.

Court recessed at 2:16 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Terry O'Rourke

D036963 People v. Jennings

Cause called on merits. David M. McKinney, Esq. argued for appellant. Carl Horst, Deputy Attorney General argued for respondent. Mr. McKinney replied. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 14, 2001 (continued)

Court recessed at 2:38 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Terry O'Rourke

D038180 Diamond Ridge Homeowners Association et al.

Cause called on merits. Patrick E. Catalano, Esq. argued for appellant. Jeff G. Harmeyer, Esq. argued for respondent. Mr. Catalano replied. Cause submitted.

D036182 People v. Friery

Cause called on merits. Beatrice C. Tillman, Esq. argued for appellant. Steve Oetting, Deputy Attorney General argued for respondent. Ms. Tillman replied. Cause submitted.

D037111 People v. Laino

Cause called on merits. Anthony Lovett, Deputy District Attorney argued for appellant. Matthew Braner, Esq. argued for respondent. Gary Nichols, Esq. was present in oral argument for respondent, but did not argue. Michael Begovich, Esq. was present in oral argument for respondent, but did not argue. Mr. Lovett replied. Court will take judicial notice of the Arizona statute that was submitted to court by Mr. Braner. Cause submitted.

D035312 Moses et al. v. G. Lynn Richardson et al.

Cause called on merits. Susan Handelman, Esq. argued for appellant. T. Michael Reed, Esq. argued for respondent. Ms. Handelman replied. Cause submitted.

Court recessed at 4:23 p.m. until Thursday, November 15, 2001 at 9 a.m.

D037487 People v. Adkins

Judgment affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

D035728 California Capital Insurance Company v. State Farm Fire and Casualty Company

The judgment is reversed and the matter is remanded for further proceedings consistent with this opinion. Appellant shall recover its costs of appeal. McDonald, J.; We Concur: Nares, Acting P.J., Haller, J.

D037697 People v. Noel

The judgment is affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D036083 Ilko v. Legion Insurance Company et al.

The judgment is affirmed. Kremer, P.J.; We Concur: Nares, J., Haller, J.

D037240 People v. Hatfield

The judgment is affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D037811 Savage v. United Airlines, Inc., et al.

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 14, 2001 (continued)

D034521 JLRB Associates v. Jenny Craig, Inc., et al.

The opinion filed on October 16, 2001, is modified. No change in judgment. The petition for rehearing is denied.

D035611 People v. Williams

The judgment is reversed, and the matter is remanded for retrial in accordance with the analysis set out above. Huffman, Acting P.J.; We Concur: Nares, J., O'Rourke, J.

D037602 People v. Riordan

The judgment is affirmed as to Riordan's conviction of making a false financial statement. It is reversed as to the grant of formal probation. The matter is remanded to the superior court with instructions to modify the sentence to delete the requirement of formal probation and add instead summary probation. McIntyre, J.; We Concur: Benke, Acting P.J., McDonald, J.

D038671 Jones v. Superior Court of San Diego County/People

Let a writ of mandate issue directing the superior court to vacate the sentence imposed on August 2, and to enter a new order granting Jones probation under section 1210.1. This opinion is made final immediately as to this court. Haller, J.; We Concur: Benke, Acting P.J., Nares, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 15, 2001

Court convened at 9:00 a.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices
Judith Haller and James McIntyre
Clerk: D. E. Moore

D036213 People v. Liu

Cause called on merits. Christopher Blake, Esq. argued for appellant. Jeff Koch, Deputy Attorney General argued for respondent. Mr. Blake replied.

D036365 Randall et al. v. Supralife International, Inc.

Cause called on merits. John H. L'Estrange, Esq. argued for appellant. Michael Singer, Esq. argued for respondent. Mr. L'Estrange replied. Cause submitted.

D036160 Swiderski v. Milberg, Weiss, Bershad, Hynes & Lerach et al.

Cause called on merits. Ken Rose, Esq. argued for appellant/cross-respondent. Phillip Burkhardt, Esq. argued for respondent/cross-appellant. Mr. Rose replied. Mr. Burkhardt replied. Cause submitted.

D035903 El Norte Partnership et al. v. Bryer

Cause called on merits. Timothy Gerald McNulty, Esq. argued for appellant. Constance Klein, Esq. argued for respondent, Green-Venable. Mr. McNulty replied.

Court recessed at 10:30 a.m. until 1:30 p.m.

D037441 People v. Gunter

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed.

D039051 People v. Williams

The denial of a petition for writ of habeas corpus is not appealable. The appeal is dismissed.

Court reconvened at 1:30 p.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices
Gilbert Nares and James McIntyre
Clerk: D. E. Moore

D038199 Day et al. v. Coast Federal Services, Inc.

Cause called on merits. David Ozeran, Esq. argued for appellant. Chris Day, Esq. argued for respondent. Mr. Ozeran replied. Cause submitted.

D036835 Meram v. Director, Department of Consumer Affairs et al.

Cause called on merits. Veronica Aguilai, Esq. argued for appellant. Linda K. Schneider, Deputy Attorney General argued for respondent. Ms. Aguilai replied. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 15, 2001 (Continued)

D038202 Beal Bank v. A & T Investments et al.

Cause called on merits. James Dennis Menke, Esq. argued for appellant. Kenneth D. Passon, Esq. argued for respondent. Mr. Menke replied. Cause submitted.

D035311 Woods v. Marina Park Condominium Association

Cause called on merits. William F. Woods, argued for appellant in pro per. Simon Freedman, Esq. argued for respondent. Mr. Woods replied. Cause submitted.

Court recessed at 2:47 p.m. until Friday, November 16, 2001 at 9 a.m.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 16, 2001

D038313 People v. Naffa

Judgment affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D037341 People v. Rich

Judgment affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

D038794 San Diego Trolley Inc. et al. v. Superior Court of San Diego County/Kinder

For good cause shown the Superior Court of the County of San Diego is ordered to show cause why the relief requested should not be granted. Absent objection by counsel on or before November 26, 2001, the briefs on file will be deemed the response and reply to the order to show cause. Oral argument will be deemed waived unless requested on or before November 30, 2001.

All proceedings in the trial court are stayed until further order of this court.

D034701 In re Marriage of Hodges

D036624 In re Marriage of Hodges

(consolidated) The order awarding \$25,000 in attorney fees to the Estate is reversed. In all other respects the appealed from judgment and orders are affirmed. The motion for sanctions is denied. The parties are to bear their own costs on appeal. Nares, J.; We Concur: Benke, Acting P.J., McDonald, J.

D038499 James S. v. Superior Court of San Diego/San Diego County Health and Human Services Agency

The petition is denied. O'Rourke, J.; We Concur: Benke, Acting P.J., Nares, J.

D038531 Alicia S. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petition is denied. Nares, J.; We Concur: Benke, Acting P.J., Haller, J.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Alex McDonald

Clerk: D. E. Moore

D036760 In re Raymundo M., a Juvenile

Cause called on merits. Casey Donovan, Esq. argued for appellant. Claudia Grasso, Certified Law Student argued for respondent. Mr. Donovan replied. Cause submitted.

D033737 People v. Richie

Cause called on merits. Kristine Marie Watkins, Esq. argued for appellant, and submitted a letter to court re Andrade. Kevin Vienna, Deputy Attorney General argued for respondent. Ms. Watkins replied. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 16, 2001 (Continued)

D036090 Beasley v. Bass

Cause called on merits. Frederick Phillips, Esq. argued for appellant. Michael N. Taylor, Esq. argued for respondent. Mr. Phillips replied. Cause submitted.

D038200 Hernandez et al. v. Ong et al.

Cause called on merits. Roger Sheaks, Esq. argued for appellant. Stacy Kramer, Esq. argued for respondent, Ong. Barbara Lynn Schloessman, Esq. argued for respondent, McAuley LCX Corporation. Mr. Sheaks replied. Cause submitted.

D038293 People v. Superior Court/Parker-RPI

Matter called on merits. D. Michael Ebert, Deputy District Attorney argued for petitioner. Gary Nichols, Deputy Public Defender argued for real party in interest, Parker. Mr. Ebert replied. Matter submitted.

Court recessed at 11:05 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices
Gilbert Nares and Judith Haller
Clerk: D. E. Moore

D037427 People v. Quarles

Cause called on merits. Susan Clemens, Deputy Public Defender argued for appellant. Bob Foster, Deputy Attorney General argued for respondent. Ms. Clemens replied. Cause submitted.

Court recessed at 1:50 p.m. to change panel members. New panel members: The Honorable
Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and
James McIntyre

D035050 People v. Lima and Le

Cause called on merits. Diane Nichols, Esq. argued for appellant, Lima. Richard L. Schwartzberg, Esq. argued for appellant. Le. Steve Oetting, Deputy Attorney General argued for respondent. Ms. Nichols replied. Mr. Schwartzberg replied. Cause submitted.

D034905 Wilkerson et al. v. Sullinger

Cause called on merits. Shannon Nugent, Esq. argued for appellant. Richard D. Ackerman, Esq. argued for respondent. Ms. Nugent replied. Cause submitted.

D036652 Sarafa v. P. C. Quote, Inc.

Cause called on merits. Robert H. Lynn, Esq. argued for appellant. John Moot, Esq. argued for respondent. Mr. Lynn replied. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

November 16, 2001 (Continued)

Court recessed at 3:05 p.m. to change panel members. New panel members: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre

D038503 Songstad et al. v. Nestande et al.

Matter called on merits. Robert Donnelly Thornton, Esq. argued for petitioner, Songstad. Steve Miller, Deputy County Counsel argued for respondent, County of Orange. William Daniel Coffee, Esq. did not argue, but joined in Mr. Thornton's argument. Fredric D. Woocher, Esq. argued for real party in interest, Nestande. Mr. Thornton replied. Matter submitted.

Court recessed at 4 p.m. until Monday, November 19, 2001 at 9 a.m.

D037918 Pappajohn v. U.S. Diagnostics Labs, Inc.

Upon written stipulation the appeal is dismissed without costs to either party.